



BOARD OF COUNTY COMMISSIONERS

## Planning and Development Department

2725 Judge Fran Jamieson Way

Building A, Room 114

Viera, Florida 32940

(321)633-2070 Phone / (321)633-2074 Fax

<https://www.brevardfl.gov/PlanningDev>

### STAFF COMMENTS

**23Z00026**

**Mina St LLC**

### **RU-1-13 (Single-Family Residential) to RU-2-10 (Medium-Density Multi-Family Residential)**

Tax Account Number: 2716147

Parcel I.D.: 27-37-13-76-\*-20

Location: North side of South Court approximately 600 feet west of N. Highway A1A  
(District 5)

Acreage: 0.21 acres

Planning & Zoning Board: 6/12/2023

Board of County Commissioners: 7/13/2023

### **Consistency with Land Use Regulations**

- Current zoning can be considered under the Future Land Use Designation, Section 62-1255.
- The proposal can be considered under the Future Land Use Designation, Section 62-1255.
- The proposal would maintain acceptable Levels of Service (LOS) (XIII 1.6.C)

	<b>CURRENT</b>	<b>PROPOSED</b>
<b>Zoning</b>	RU-1-13	RU-2-10
<b>Potential*</b>	1 SF unit	2 MF units
<b>Can be Considered under the Future Land Use Map</b>	YES RES 15	YES RES 15

\* Zoning potential for concurrency analysis purposes only, subject to applicable land development regulations.

### **Background and Purpose of Request**

The applicant is requesting to change the zoning classification from RU-1-13 Single-Family Residential) to RU-2-10 (Medium-Density Multi-Family Residential) on a 0.21-acre lot to legitimize the existing use of the property. The subject parcel is currently developed as a residential duplex, converted from a single-family residence built in 1963.

The parcel was originally zoned RU-3 and was rezoned from RU to RU-1-13 on August 2, 1973 under **Ordinance 73-13**.

A variance of 12.5 feet of the minimum frontage on Lot 20; a variance of 15 feet of the minimum frontage on lot 21; and a variance on the minimum lot area of Lot 21 were all approved May 24, 1963 under **V-60**.

There is an active code enforcement case (23CE-00245) associated with this property for non-compliance with Sec. 62-1945.2, Brevard County Code: Resort Dwellings Conditional Use – Resort

Dwelling as a conditional use must meet qualifying conditions. The proposed multi-family zoning classification would allow for resort dwellings.

## **Land Use**

The subject property is currently designated as Residential 15 (RES 15) FLU. Both the existing RU-1-13 as well as the proposed RU-2-10 zoning classifications can be considered consistent with the RES 15 FLUM designation.

## **Applicable Land Use Policies**

### **FLUE Policy 1.4 – Residential 15 (maximum of 15 dwelling units per acre)**

The Residential 15 land use designation affords the second highest density allowance, permitting a maximum density of up to fifteen (15) units per acre, except as otherwise may be provided for within the Future Land Use Element.

### **The applicant's request can be considered consistent with the existing RES 15 Future Land Use.**

The Board should evaluate the compatibility of this application within the context of Administrative Policies 2 – 8 of the Future Land Use Element.

### **Analysis of Administrative Policy #3 - Compatibility between this site and the existing or proposed land uses in the area.**

Compatibility shall be evaluated by considering the following factors, at a minimum:

Criteria:

- A. Whether the proposed use(s) would have hours of operation, lighting, odor, noise levels, traffic, or site activity that would significantly diminish the enjoyment of, safety or quality of life in existing neighborhoods within the area which could foreseeably be affected by the proposed use;

**The applicant requests to rezone 0.21 acres to RU-2-10 zoning classification for the purpose of legitimizing the existing use of the property. There is one (1) active code enforcement case (23CE-00245) associated with this property for non-compliance with Sec. 62-1945.2, Brevard County Code: Resort Dwellings Conditional Use – Resort Dwelling as a conditional use must meet qualifying conditions. The proposed multi-family zoning classification would allow for resort dwellings.**

- B. Whether the proposed use(s) would cause a material reduction (five per cent or more) in the value of existing abutting lands or approved development.

**Only a certified MAI appraisal can determine if material reduction has or will occur due to the proposed request.**

- C. Whether the proposed use(s) is/are consistent with an emerging or existing pattern of surrounding development as determined through an analysis of:

1. historical land use patterns;

**The surrounding area is single-family residential in character on lots one (1) acre or larger in size. There is one (1) FLU designations within 500 feet of the subject site: RES 15. The predominant FLU designation along South Court as well as this section of Highway A1A is RES 15.**

2. actual development over the immediately preceding three years; and

**It appears no changes to the immediate area have occurred within the last three years.**

3. development approved within the past three years but not yet constructed.

**While there has not been any actual development within this area in the preceding three (3) years, one zoning action has been approved within one-half mile:**

**22Z00066, approved by the Board on March 1, 2023, was a request to rezone from RU-1-13 (Single-Family Residential) to RU-2-10 (Medium-Density Multi-Family Residential) on 0.57 acres located on E. Coral Way approximately 325 feet south of the subject property. There are no pending zoning actions within one-half mile of the subject property.**

- D. Whether the proposed use(s) would result in a material violation of relevant policies in any elements of the Comprehensive Plan.

**No material violation of relevant policies has been identified.**

#### **Analysis of Administrative Policy #4 - Character of a neighborhood or area.**

Character of a neighborhood or area shall be a factor for consideration whenever a rezoning or any application involving a specific proposed use is reviewed. The character of the area must not be materially or adversely affected by the proposed rezoning or land use application. In evaluating the character of an area, the following factors shall be considered:

Criteria:

- A. The proposed use must not materially and adversely impact an established residential neighborhood by introducing types or intensity of traffic (including but not limited to volume, time of day of traffic activity, type of vehicles, etc.), parking, trip generation, commercial activity or industrial activity that is not already present within the identified boundaries of the neighborhood.

The developed character of the surrounding area is residential, with a mix of single family residential on one-quarter acre lots or smaller. Immediately west of the subject property is parcel developed as a religious institution within the City of Melbourne.

This request can be considered an expansion of RU-2-10 into the immediate area. The closest RU-2-10 is located approximately 340 feet east of the subject property and serves as a transition area from beachside RU-2-15. There are five (5) single family residences on the north side of South Court between the subject property and the RU-2-10 primarily developed as multi-family condominiums. The proposed multi-family zoning classification would allow for resort dwellings.

## Surrounding Area

	Existing Use	Zoning	Future Land Use
<b>North</b>	Single-Family Residences	RU-1-13	RES 15
<b>South</b>	Single-Family Residence	RU-1-13	RES 15
<b>East</b>	Single-Family Residence	RU-1-13	RES 15
<b>West</b>	Religious Institution	City of Melbourne	City of Melbourne

To the north are two parcels (0.2-acres and 0.15-acres) with RU-1-13 zoning developed as single-family residences.

To the south is a 0.18-acre parcel with RU-1-13 zoning developed as a single-family residence.

To the east is a 0.25-acre parcel with RU-1-13 zoning developed as a single-family residence.

To the west is 28.25-acre parcel developed as a religious institution within the City of Melbourne.

The current RU-1-13 classification permits single-family residences on minimum 7,500 square foot lots, with minimum widths and depths of 75 feet. The minimum house size is 1,300 square feet. RU-1-13 does not permit horses, barns or horticulture.

The proposed RU-2-10 classification permits multiple-family residential development or single-family residences at a density of up to 10 units per acre on minimum lot sizes of 7,500 square feet.

IN(L) is an Institutional (Light) zoning classification, intended to promote low impact private, nonprofit, or religious institutional uses to service the needs of the public for facilities of an educational religious, health or cultural nature.

TU-1 is a general tourist commercial zoning classification which permits hotels and motels among its listed uses. It also permits BU-1-A type retail uses in conjunction with and accessory to a hotel or motel with a minimum of 25 rooms. The minimum lot size is 15,000 with a minimum width of 100' and minimum depth of 150'. No maximum density restrictions shall apply in the community commercial future land use designation.

One zoning action has been approved within a half-mile radius of the subject property within the last three years: 22Z00066, approved by the Board on March 1, 2023, was a request to rezone from RU-1-13 (Single-Family Residential) to RU-2-10 (Medium-Density Multi-Family Residential) on 0.57 acres located approximately 325 feet south of the subject property. There are no pending zoning actions within one-half mile of the subject property.

## **Preliminary Concurrency**

The closest concurrency management segment to the subject property is SR A1A, from Paradise Boulevard to Eau Gallie Boulevard, which has a Maximum Acceptable Volume (MAV) of 41,790 trips per day, a Level of Service (LOS) of D, and currently operates at 50.99% of capacity daily. The maximum development potential from the proposed rezoning increases the percentage of MAV utilization by 0.00%. The corridor is anticipated to operate at 50.99% of capacity daily. The maximum development potential of the proposal is not anticipated to create a deficiency in LOS. Specific concurrency issues will be address at the time of site plan review. This is only a preliminary review and is subject to change.

No school concurrency information has been provided as the development potential of this site falls below the minimum number of new residential lots that would require a formal review.

The parcel is within the City of Melbourne utilities service area for public water. The closest Brevard County sanitary sewer line is approximately 400 feet east on South Court.

## **Environmental Constraints**

- Aquifer Recharge Soils
- Indian River Lagoon Nitrogen Reduction Septic Overlay
- Land Clearing and Landscape Requirements
- Protected Species – Florida Scrub Jay

Please refer to all comments provided by the Natural Resource Management Department at the end of this report.

## **For Board Consideration**

The Board may wish to consider whether the expansion of RU-2-10 multi-family zoning, which introduces Resort Dwelling into single-family residential, is consistent and compatible with the surrounding area.

**NATURAL RESOURCES MANAGEMENT (NRM) DEPARTMENT  
Zoning Review & Summary**

**Item #23Z00026**

**Applicant:** Mina St. LLC

**Zoning Request:** RU-1-13 to RU-2-10

**Note:** To legitimize existing duplex use

**Zoning Hearing Date:** 06/12/2023; **BCC Hearing Date:** 07/13/2023

**Tax ID No:** 2716147

- This is a preliminary review based on best available data maps reviewed by the Natural Resources Management Department (NRM) and does not include a site inspection to verify the accuracy of the mapped information.
- In that the rezoning process is not the appropriate venue for site plan review, specific site designs submitted with the rezoning request will be deemed conceptual. Board comments relative to specific site design do not provide vested rights or waivers from Federal, State or County regulations.
- **This review does not guarantee whether or not the proposed use, specific site design, or development of the property can be permitted under current Federal, State, or County Regulations.**

**Summary of Mapped Resources and Noteworthy Land Use Issues:**

- Aquifer Recharge Soils
- Indian River Lagoon Nitrogen Reduction Septic Overlay
- Land Clearing and Landscape Requirements
- Protected Species – Florida Scrub Jay

No noteworthy land use issues were identified. NRM reserves the right to assess consistency with environmental ordinances at all applicable future stages of development.

**Land Use Comments:**

**Aquifer Recharge Soils**

The subject parcel contains mapped aquifer recharge soils (Canaveral-Palm Beach-Urban land complex) as shown on the USDA Soil Conservation Service Soils Survey map. Mapped topographic elevations indicate the soils may consist of Type 3 Aquifer Recharge soils that have impervious area restrictions. The applicant is hereby notified of the development and impervious restrictions within Conservation Element Policy 10.2 and the Aquifer Protection Ordinance.

**Indian River Lagoon Nitrogen Reduction Overlay**

The parcel is mapped within the Indian River Lagoon Nitrogen Reduction Overlay per Chapter 46, Article II, Division IV - Nitrogen Reduction Overlay. If adequate sewer for the development is not available, then the use of an alternative septic system, designed to provide at least 65% total nitrogen reduction through multi-stage treatment processes, shall be required. NRM requires a Septic Maintenance Notice be filed with the Brevard Clerk of Courts.

**Land Clearing and Landscape Requirements**

Per Brevard County Landscaping, Land Clearing and Tree Protection ordinance, Section 62-4331(3), a purpose and intent of the ordinance is to encourage the protection of trees. The applicant is advised to refer to Article XIII, Division 2, entitled Land Clearing, Landscaping, and Tree Protection, for specific requirements for Protected and Specimen tree preservation, and canopy coverage requirements. Land clearing is not permitted without prior authorization by NRM.

**Protected Species**

Information available to NRM indicates that federally and/or state protected species may be present on the property. Specifically, a mapped Florida Scrub Jay occupancy polygon is located on the west one-third of the property. Additionally, gopher tortoises can be found in aquifer recharge soils. Prior to any plan, permit submittal, or development activity, including land clearing, the applicant should obtain any necessary permits or clearance letters from the Florida Fish and Wildlife Conservation Commission and/or U.S. Fish and Wildlife Service, as applicable.